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First Named Inventor: Hans-Martin Dietrich

Application No. 10/501,750

Attorney Docket No. 2002P00211WOUS

Filed: July 15, 2004

Title: IMPROVED DATA PROTECTION FOR POSITION DEPENDENT SERVICES

Examiner: Nghi H. Ly

Art Unit: 2617

⇒ **FACSIMILE ATTN TO: NGHI H. LY****FAX NO.: 571-273-8300****APPELLANT'S BRIEF**Commissioner for Patents
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FEE TRANSMITTAL for FY 2005		Application Number	10/501,750	
		Filing Date	JULY 15, 2004	
		First Named Inventor	HANS-MARTIN DIETRICH	
		Examiner Name	NGHI H. LY	
		Art Unit	2617	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.		Attorney Docket No.	2002P00211WOUS	
TOTAL AMOUNT OF PAYMENT (\$) 500				

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Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description		Small Entity	
Fee (\$)		Fee (\$)	Fee (\$)
Each claim over 20 (including Reissues)		50	25
Each independent claim over 30 (including Reissues)		200	100
Multiple dependent claims		360	180
Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____ - 20 or HP = _____	x _____	= _____	
HP = highest number of total claims paid for, if greater than 20.			
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____ - 3 or HP = _____	x _____	= _____	
HP = highest number of independent claims paid for, if greater than 3.			

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If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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Name (Print/Type)	JOHN P. MUSONE	Date	NOVEMBER 22, 2006		

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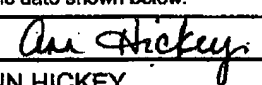
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TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/501,750
	Filing Date	July 15, 2004
	First Named Inventor	Hans-Martin Dietrich
	Art Unit	2617
	Examiner Name	Nghi H. Ly
Total Number of Pages In This Submission	Attorney Docket Number	2002P00211WOUS

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Facsimile Cover Sheet Including a certificate of transmission under 37 CFR 1.8
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Inventor:	Hans M. Dietrich, et al.)	
)	Group Art Unit: 2617
Serial No.:	10/501,750)	
)	Examiner: Ly, Nghi H.
Filed:	07/15/2004)	
Title:	IMPROVED DATA PROTECTION FOR POSITION DEPENDENT SERVICES		

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APPELLANT'S BRIEF UNDER 37 CFR 41.10

This brief is in furtherance of the Notice of Appeal filed in this application on September 25, 2006.

1. REAL PARTY IN INTEREST - 37 CFR 41.37(c) (1) (I)

The real party in interest in the present Appeal is the assignee of record of the present application, Siemens Aktiengesellschaft.

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Serial No. 10/501,750**Attorney Docket No. 2002P00211WOUS****2. RELATED APPEALS AND INTERFERENCES - 37 CFR 41.37(c) (1) (ii)**

There is no other appeal, interference or judicial proceeding that is related to or that will directly affect, or that will be directly affected by, or that will have a bearing on the Board's decision in this Appeal.

3. STATUS OF CLAIMS - 37 CFR 41.37(c) (1) (iii)

Claims cancelled: 1-17 and 33.

Claims withdrawn but not cancelled: none.

Claims pending: 18-32 and 34.

Claims allowed: none.

Claims rejected: 18-32 and 34.

Claim rejections appealed: 18-32 and 34.

4. STATUS OF AMENDMENTS - 37 CFR 41.37(c) (1) (iv)

There is no unentered amendment subsequent to final rejection.

5. SUMMARY OF CLAIMED SUBJECT MATTER- 37 CFR 41.37(c) (1) (v)**Claim 18**

Independent claim 18 is directed to a method for requesting the agreement of a user of a mobile terminal 13 (FIG. 3) in a mobile radio network to the transfer of their position data to a party, e.g., Locator Services Application (LCS) 11, requesting this position data. For example, see paragraphs 36-37 of publication document of the present application. The method allows providing a central privacy entity 26 comprising a database server for storing privacy data 18 regarding the mobile terminal. In particular, the central privacy entity constitutes a separate entity from a Home Location Register (HLR) 16 for the mobile terminal. The privacy data 18 stored in the database server at the central privacy entity is defined to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward

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the mobile terminal position to the requester. See paragraphs 38-39 of publication document of the present application. The switching center 14 of the mobile radio network (in the event of the arrival of a request from a requester for the position of the mobile terminal) causes the database server at the central privacy entity 26 to make a check on the basis of the privacy data stored there.

The results of the check performed at the central privacy location 26 are sent to the switching center 14. If the result indicates that an agreement must be obtained, the switching center 14 sends a request for an agreement to the mobile terminal. If the agreement is received by the switching center, then the position of the mobile terminal is sent by the switching center to the requester. See paragraph 40 of publication document of the present application. See also paragraphs 22-24.

Claim 28

Dependent claim 28 further defines claim 18 by reciting that the database server 26 is arranged in an SCP (Service Control Point). See paragraph 42 of publication document of the present application.

Claim 34

Independent claim 34 is directed to computer readable media containing program instructions for requesting the agreement of a user of a mobile terminal 13 (FIG. 3) of a mobile radio network to the transfer of their position data to a party, e.g., Locator Services Application (LCS) 11, requesting this position data. For example, see paragraphs 36-37 of publication document of the present application. The computer readable media comprises computer readable code for storing privacy data 18 regarding the mobile terminal in a database server at a central privacy location 26. The central privacy location constitutes a separate location from a Home Location Register (HLR) 16 for the mobile terminal. For example, see paragraphs 38-39 of publication document of the present application. The computer readable media further comprises computer readable code for defining the privacy data stored in the database server at the central

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privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester. Computer readable code causes the switching center, in the event of the arrival of a request from a requester for the position of the mobile terminal, to access the database server at the central privacy location to perform a check on the basis of the privacy data stored there.

Computer readable code is provided for sending the result of the check performed at the central privacy location to the switching center. Computer readable code is provided for sending, by the switching center, if the result at least indicates that an agreement must be obtained, a request for an agreement to the mobile terminal, and computer readable code is provided for transmitting, if the agreement is received by the switching center, the position of the mobile terminal to the requester. For example, see paragraphs 38-39 of publication document of the present application. See also paragraphs 22-24.

6. GROUNDS OF REJECTION TO BE REVIEWED UPON APPEAL -

37 CFR 41.37(c) (1) (vi)

A) Whether claims 18-27, 29-32 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US pat. No. 6,311,069 (hereinafter Havinis) in view of US Publication No. 2001/0014604A1 (hereinafter Kingdon).

B) Whether claim 28 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Havinis in view of Kingdon and further in view of US pat. No. 6,961,417 (hereinafter Koch).

Serial No. 10/501,750**Attorney Docket No. 2002P00211WOUS****7. ARGUMENT-37 CFR 41.37(c) (1) (vii)****A. Regarding the rejection of claims 18-27, 29-32 and 34 under 35 U.S.C. 103(a) as being unpatentable over Havinis in view of Kingdon.**

Appellant argues that the Havinis/Kingdon combination does not constitute an appropriate *prima facie* combination for renderings claims 18-27, 29-32 and 34 unpatentable because such combination, even if combined as suggested by the Examiner, fails to teach or suggest each of the claimed elements and/or operational relationships. With regard to the rejections applied against claims 18-27, 29-32 and 34, it is appellant's belief that not all of the rejected claims stand or fall together. More specifically, method claims 18-27, and 29-32 stand together. However, claim 34, directed to computer readable media, should be grouped separately from claims 18-27 and 29-32, for purposes of this appeal.

A.1 Arguments Regarding Claim 18

Applicant respectfully submits that the Havinis/Kingdon combination fails to describe or suggest the method set forth in claim 18. The method set forth in claim 18 allows requesting the agreement from a user of a mobile terminal of a mobile radio network regarding the transfer of the user position data to a party requesting this information.

The Examiner correctly acknowledges that Havinis fails to disclose or suggest that the central privacy entity constitutes a separate entity from a Home Location Register (HLR) for the mobile terminal. The Examiner then applies Kingdon to purportedly remedy the deficiencies of Havinis regarding the claimed invention. However, as discussed in greater detail below, the combination of Kingdon with Havinis fails to teach or suggest the claimed invention.

Kingdon is directed to provisioning assistance GPS data to a mobile station. See abstract of Kingdon. See also paragraph 14 of publication document of Kingdon. The presently claimed invention is directed to safeguarding privacy data from the mobile station when the mobile station is requested to report its

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location. As best understood by applicant, there is no discussion in Kingdon of any kind regarding privacy issues that can arise when the reporting of location is from the mobile station, as set forth in the claimed invention. Although Kingdon may use various databases, (e.g., VLR 16, HLR 26 as shown in FIG. 1 of Kingdon), the utilization of such databases has nothing to do with the claimed operational relationships of storing privacy data at the central privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester. It is respectfully submitted that it is error for the Examiner to suggest that database VLR 16 of Kingdon somehow teaches the foregoing relationships merely because such database "contains various subscriber information". The prior art reference must describe and enable the claimed invention with sufficient clarity and detail to establish that the subject matter already existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention. See *Elan Pharmans. Inc v. Mayo Found. For Med. Educ. & Research*, 304 F3d 1221, 64 USPQ2d 1292, 1296 (Fed. Cir. 2002, *opinion vacated on other grounds*, 341 F3d 1051, 68 USPQ2d 1373 (Fed. Cir. 2003) (*en banc*); See also *Crown Operations Int'l, Ltd. v. Solutia Inc.*, 289 F3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002).

In view of the foregoing remarks, it is respectfully submitted that neither Havinis nor Kingdon, singly or in combination, teach or suggest the structural and/or operational relationships set forth in claim 18. Accordingly, the Havinis/Kingdon combination fails to render claim 18 unpatentable under the §103 statutory requirements and this rejection should be withdrawn. Since claims 18-27, and 29-32 include the structural and/or operational relationships respectively recited in claim 18, it is also respectfully submitted that the Havinis/Kingdon combination also fails to render unpatentable claims 18-27 and 29-32. Accordingly, the rejection of claims depending from claim 18, should also be withdrawn.

Serial No. 10/501,750**Attorney Docket No. 2002P00211WOUS****A.2 Arguments Regarding Claim 34**

Independent claim 34 is directed to computer readable media containing program instructions for requesting the agreement from a user of a mobile terminal of a mobile radio network to the transfer of their position data to a party requesting this position data.

The Examiner correctly acknowledges that Havinis fails to disclose or suggest that the central privacy entity constitutes a separate entity from a Home Location Register (HLR) for the mobile terminal. The Examiner then applies Kingdon to purportedly remedy the deficiencies of Havinis regarding the claimed invention. However, as discussed in greater detail below, the combination of Kingdon with Havinis fails to result in the claimed invention.

Kingdon is directed to provisioning assistance GPS data to a mobile station. See abstract of Kingdon. See also paragraph 14 of publication document of Kingdon. The claimed invention is directed to safeguarding privacy data from the mobile station when the mobile station is requested to report its location. There is no discussion in Kingdon regarding privacy issues that can arise when the reporting of location is from the mobile station, as does the claimed invention. Although Kingdon may use various databases, (e.g., VLR 16, HLR 26 as shown in FIG. 1 of Kingdon), the utilization of such databases has nothing to do with the claimed structural and/or operational relationships set forth in computer readable code for defining the privacy data stored in the database server at the central privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester. It is respectfully submitted that it is error for the Examiner to suggest that database VLR 16 of Kingdon somehow teaches the foregoing relationships merely because such database "contains various subscriber information". (Citations omitted) Accordingly, the Havinis/Kingdon combination does not constitute an appropriate *prima facie* combination for rendering claim 34 unpatentable. Accordingly, the rejection of claim 34 should be withdrawn.

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Attorney Docket No. 2002P00211WOUS

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B. Regarding the rejection of claim 28 as being unpatentable under 35 U.S.C. 103(a) over Havinis in view of Kingdon and further in view of Koch.

Appellant argues that the Havinis/Kingdon/Koch combination does not constitute an appropriate *prima facie* combination for renderings claim 28 unpatentable because such a combination, even if combined as suggested by the Examiner, fails to teach or suggest each of the claimed elements and/or operational relationships.

More specifically, it is respectfully submitted that Koch fails to overcome the deficiencies of Havinis/Kingdon noted above in connection with claim 18, the parent claim of claim 28. Consequently, the Havinis/Kingdon/Koch combination fails to render unpatentable claim 28. Accordingly, the rejection of claim 28 should be withdrawn.

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8. CLAIMS APPENDIX - 37 CFR 41.37(c) (1) (viii).

A copy of the claims 18-32 and 34 involved in this appeal is attached as a claims appendix under 37 CFR 41.37(c) (1) (viii).

9. EVIDENCE APPENDIX - 37 CFR 41.37(c) (1) (ix)

None is required under 37 CFR 41.37(c) (1) (ix)

10. RELATED PROCEEDINGS APPENDIX - 37 CFR 41.37(c) (1) (x)

None is required under 37 CFR 41.37(c) (1) (x)

Respectfully submitted,

Dated: 11/22/06

By: 

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CLAIMS APPENDIX
37 CFR 41.37(c)(1)(viii)

18. A method for requesting the agreement of a user of a mobile terminal of a mobile radio network to the transfer of their position data to a party requesting this position data, the method comprising:

providing a central privacy location comprising a database server for storing privacy data regarding the mobile terminal, wherein said central privacy location constitutes a separate location from a Home Location Register for the mobile terminal;

defining the privacy data stored in the database server at the central privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester;

causing, by the switching center of the mobile radio network, in the case of the arrival of a request from a requester for the position of the mobile terminal in the switching center, the database server at the central privacy location to make a check on the basis of the privacy data stored there;

sending the result of the check performed at the central privacy location to the switching center;

sending, by the switching center, if the result at least indicates that an agreement must be obtained, a request for an agreement to the mobile terminal;
and

transmitting, if the agreement is received by the switching center, the position of the mobile terminal to the requester.

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19. The method according to Claim 18, wherein the request arrives at a position data acceptance location of the mobile radio network.
20. The method according to Claim 18, wherein the switching center is an MSC (Mobile Switching Center) or SGSN (Serving GPRS (General Pocket Radio Service) Support Node).
21. The method according to Claim 18, further comprising:
requesting, by the switching center, the position of the mobile terminal from a BSS (Base Station System) or RAN (Regional Area Network) of the mobile radio network.
22. The method according to Claim 18, wherein
a verification rules specification can only comprise a prespecified set of different instructions, especially one of the following instructions: position data transfer without notification, position data transfer with notification to the mobile terminal, position data transfer only after agreement of the mobile station or if no response is received from the mobile station, only transfer position data with the agreement of the mobile station.
23. The method according to Claim 18, further comprising:
storing, for a multiplicity of mobile subscriber identity modules and/or mobile stations, verification rules specifications and identity specifications for the mobile terminal or for a mobile subscriber identity module contained in it.
24. The method according to Claim 18, further comprising:
regularly receiving, by a switching center, especially a Visitor Location Register of a switching center from the Home Location Register of a mobile network the telecommunications address of the database server or receiving it when a mobile terminal registers at the switching center or its Visitor Location Register VLR.

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25. The method according to Claim 18, wherein position data is only transferred to a requester if this is allowed for the period of the recording of the position according to stored conditions for the user of the mobile station or its mobile subscriber identity module through attributes stored in the database.
26. The method according to Claim 18, further comprising:
changing the conditions by the user via their mobile terminal or another terminal by mobile radio, WAP (Wireless Application Protocol), Internet, fixed network or in another way.
27. The method according to Claim 18, wherein the switching center is the mobile switching center currently being used by the mobile terminal .
28. The method according to Claim 18, wherein the database server is arranged in an SCP (Service Control Point).
29. The method according to Claim 18, wherein the database server is a database comprising the verification rules specifications and possibly additional attributes and comprising an additional unit which makes the check.
30. The method according to Claim 18, further comprising:
storing the entries in the database server but, to make upwards compatibility with a Home Location Register, which does not support the improvement of the LCS (Locator Services) Privacy in accordance with the invention, transmitting entries to a mobile network Home Location Register on request or at regular intervals, so that the mobile network Home Location Register can transmit the entries to a switching center.
31. The method according to claim 30, further comprising
performing a proportion of the checks in accordance with a classification in the switching center; and
transmitting the result as an additional input parameter to the database server.

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32. The method according to claim 31, further comprising
storing the entries in a Home Location Register;
storing only additional attributes in the database server; and
storing the address of the database server in the Home Location Register.

34. A computer readable media containing program instructions for requesting the agreement of a user of a mobile terminal of a mobile radio network to the transfer of their position data to a party requesting this position data, the computer readable media comprising:

computer readable code for storing privacy data regarding the mobile terminal in a database server at a central privacy location, wherein said central privacy location constitutes a separate location from a Home Location Register for the mobile terminal;

computer readable code for defining the privacy data stored in the database server at the central privacy location to assign to the mobile terminal at least one verification rule as to whether an agreement must be obtained on the mobile terminal side to forward the mobile terminal position to the requester;

computer readable code causing the switching center, in the event of the arrival of a request from a requester for the position of the mobile terminal, to access the database server at the central privacy location to perform a check on the basis of the privacy data stored there;

computer readable code for sending the result of the check performed at the central privacy location to the switching center;

computer readable code for sending, by the switching center, if the result at least indicates that an agreement must be obtained, a request for an agreement to the mobile terminal; and

computer readable code for transmitting, if the agreement is received by the switching center, the position of the mobile terminal to the requester.